

Statewide Distribution Training
May 2015

Questions and Answers:

1. Q: If a defendant is ordered to pay a fine which includes a \$25 Own Recognizance fee, but the defendant was charged a \$10 fee, what should happen to the extra \$15 ordered by court?

A: If no agreement to collect additional \$15 as ordered, it should be refunded to defendant, unless impracticable or too costly to search for defendant.

2. Q: Is the criminal lab fee, for violations of H&S 11350, applied to the violation only or does it also apply to subsections of the violation?

A: If the subsection is not referenced, it would apply to entire section.

3. Q: If judge orders a fine, then orders a portion suspended, is the amount prorated across all ledgers?

A: Yes. Programs may use Top-Down distribution method, see PC 1463.004.

4. Q: If payment is made by money order or credit card and neither case nor demographic information is provided, how should monies be recorded?

A: Recommend putting money in a trust. If not claimed, follow the escheatment process. For infraction and misdemeanors the amount is escheated after 1 year, otherwise 3 years.

5. Q: County drug program fee—if there are more than three (3) convictions for violation of the code, but only a \$150 fee is ordered, can a clerk add the other two?

A: Unless delegated authority to clerk is clearly outlined in a standing order, he/she should only charge the amount ordered, as stated on the minute order.

6. Q: What happens to the fine amount when a judge orders less than the amount on Uniform Bail and Penalty Schedule?

A: The fine should be distributed using one of the two top down methods, either one is allowed, as long as consistently used.

7. Q: On the Penalty Assessment, if an increase is not updated timely on the case management system (CMS) to reflect the effective date, will the program be penalized?

A: The CMS should be updated with correct assessment amounts as soon as possible after statutory changes go into effect. Any penalties imposed on an individual program would be dependent on each situation.

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8. Q: How does distribution differ between juvenile and adult cases?

A: The distribution of fines from adult and juvenile cases (heard in adult court) does not differ.

9. Q: Can probation service fees be ordered?

A: Probation service fees may only be ordered by the court on formal probation cases.

10. Q: Are criminal fines assessed upon conviction or on date of violation?

A: Fines are assessed upon conviction, based on approved amount on date of violation.

11. Q: Is the \$7.50 assessed on parking violations imposed on every citation written or by violation?

A: The \$7.50 (\$4.50 assessment pursuant to VC 70372(b) and \$3.00 penalty pursuant to GC 76000.3) is assessed on each parking violation conviction.

12. Q: Can administrative fee charged under PC 1205(e) be collected up front?

A: Yes, the fee may be charged and collected up front, otherwise it becomes part of the payment and distribution drops to fourth priority.

13. Q: Is it acceptable for judge to say “plus all penalties and assessments” or must the judge cite all?

A: Pursuant to *People V. Daniel High*, it is necessary for a judicial officer to cite all fines and fees to be abstracted and verbalize them as separate fines, fees, penalties, assessments, and/or surcharges so as not to allow for mistake or ambiguity.

14. Q: Are PC1463.001 distributions, if formal probation with fines owed, not subject to city split, unlike summary probation cases?

A: All fines and forfeitures imposed and collected for crimes (other than parking offenses) are distributed pursuant to PC 1463.001. Base fines without specific distributions are distributed 100 percent to the county on county arrests, and are split between the city and county on city arrests, pursuant to PC 1463.002.

15. Q: If probation expires but fines are outstanding, who is responsible for pursuing collection?

A: The responsible collecting entity is responsible for pursuing collection of delinquent court-ordered fines.

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<p>16. Q: When an amount imposed differs from statute, or it is not updated on Board of Supervisor (BOS) resolution, should amount be listed in resolution?</p>

<p>A: If amount that is being imposed differs from statute the amount should be referenced in a BOS resolution or outlined in policy or rule of court that states "reference statutory change."</p>

<p>17. Q: Should the \$10 additional fine for robbery, burglary, etc., (under PC 1202.5) be distributed to the county or can it be distributed directly to agency?</p>
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<p>A: The fine should be distributed to the county, not agency. Or, all fines could be held in trust until transferred to the local law enforcement agency.</p>

<p>18. Q: If defendant requests traffic school but has priors, does the "priors" amount go to traffic school or back to citing county?</p>
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<p>A: Traffic school does not enhance the fine, because it not a fine anymore but a fee.</p>
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<p>19. Q: When schools issue DUI and speeding citations, are they enforceable by the court, or must fines collected be remitted to the local court/county?</p>
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<p>A: Statutes that govern citations for infractions and Vehicle Code violations authorize peace officers to issue Notices to Appear to be filed with the court. Under both the Education Code and the Penal Code peace officers include: (1) persons employed and compensated as members of a police department of a school district, when duly sworn; (2) members of a California Community College police department; (3) any peace officer employed by a K-12 public school district who has completed training as a school police officer, and; (4) members of the University of California Police Department and the California State University Police department. Citations issued by these peace officers should be treated in the same manner as citations issued by local peace officers.</p>
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<p>20. Q: On a Juvenile DUI, which fees are not applicable?</p>

<p>A: The Criminal Conviction Assessment and Court Operations Fee are imposed upon conviction and are not applicable to juvenile DUI cases, unless the case was heard in adult court and resulted in a conviction.</p>
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<p>21. Q: Can we add civil assessment to the State restitution fine when that is the only thing ordered from the judge and it becomes delinquent?</p>

<p>A: Yes. The civil assessment may be added to delinquent fines.</p>

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22. Q: Upon an internal audit for parking penalty-related fees, county determined that they've been underpaid. County plans to submit the underpayment to the SCO along with Internal Audit report. Advise who we should address our memo and our report to. Should we remit the money through TC-31?

A: If you plan to submit an underpayment had just discovered in an internal audit, you may send it in a TC-31 to SCO's Fiscal Control Section.

23. Q: One of our jurisdictions (a CSU University – CSU Chico) didn't properly impose GC70372 (b) and GC76000.3, resulting in underpayment of parking fees by \$4.50 per citation owed to State. We didn't realize the underpayment until last year. The University hired a third party for parking tickets revenue collection and distribution. They submitted to the County Auditor a portion of the fees which we allocated to the Criminal Justice, Court House Construction and Parking Surcharge. The University didn't know they were short \$4.50 on each citation. I asked the question about who is responsible for the underpayment of parking penalties at the training. The lady from SCO said the County should be responsible under the current GC code. What Code is she referring to?

A: GC 70377 states who is responsible to pay penalties in the case of under remittances or late remittances to the State.

24. Q: When should PC1463.14 (a) and PC1463.16 be assessed?

A: Both fees should be assessed upon conviction of a violation of VC 23103, 23104, 23105, 23152, or 23153; fifty dollars (\$50) of each fine collected should be deposited for alcoholism program and services.

25. Q: Should the PC1463.14 (a) and PC4463.16 be assessed on all VC23103 and VC23104 violations?

A: Yes, both fees should be assessed upon conviction of a violation of VC 23103 and 23104; fifty dollars (\$50) of each fine collected should be deposited for alcoholism program and services.

26. Q: Since the \$10 ordered under PC 1202.5 is a "fine", is it subject to the standard "*Additional Penalties and Surcharges*" to the 2% automation?

A: Yes, the \$10 fine is an enhancement and should be added in addition to any other fine or penalty. Since it is a "fine," it is subject to the 2% automation.

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<p>27. Q: Who is entitled to overpayments?</p>
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<p>A: Pursuant to GC section 29372 - 29381, if overage is less than \$10, the money goes to court. If more than \$10, an effort should be made to locate the defendant and refund the overpayment.</p>
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<p>28. Q: If a defendant is on a traffic school payment plan, but he/she fails to complete traffic school, pays only half of the balance due, and stops making payments. What does this mean for distribution?</p>
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<p>A: The court may order that fees be converted to bail and declare the bail forfeited. The distribution rules of VC 42007 would apply.</p>
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